

## 25. Dispensing Authority

Exhibit No. 4Date 2-20-2009Bill No. SB 445

State	Medical Doctor	Doctor of Osteopathy	Dentist	Podiatrist	Veterinarian	Homeopathy
Alabama	Yes	Yes	Yes	Yes	Yes	No
Alaska	Yes	Yes	Yes	Yes	Yes	No
Arizona	Yes	Yes	Yes	Yes	Yes	Yes
Arkansas	Yes D	Yes D	Yes	Yes D	Yes	No
California	Yes	Yes	Yes	Yes	Yes	No
Colorado	Yes	Yes	Yes	Yes	Yes	No
Connecticut	Yes	Yes	Yes	Yes	Yes	No
Delaware	Yes	Yes	Yes	Yes	Yes	No
District of Columbia	Yes	Yes	Yes	Yes	Yes	No
Florida	Yes	Yes	Yes	Yes	Yes	No G
Georgia	Yes	Yes	Yes	Yes	Yes	No
Guam	Yes	Yes	Yes	Yes	Yes	Yes B
Hawaii	Yes	Yes	Yes	Yes	Yes	No
Idaho	Yes	Yes	Yes	Yes	Yes	No
Illinois	Yes	Yes	Yes	Yes	Yes	No
Indiana	Yes	Yes	Yes	Yes	Yes	No
Iowa	Yes	Yes	Yes	Yes	Yes	No
Kansas	Yes	Yes	Yes	Yes	Yes	No
Kentucky	Yes	Yes	Yes	Yes	Yes	No
Louisiana	Yes	Yes	Yes	Yes	Yes	No
Maine	Yes	Yes	Yes	Yes	Yes	No
Maryland	Yes O, WW	No	Yes O, WW	Yes O, WW	Yes	No
Massachusetts	Yes Q	Yes Q	Yes Q	Yes Q	Yes Q	No Q
Michigan	Yes R	Yes R	Yes R	Yes R	Yes R	No
Minnesota	Yes	Yes	Yes	Yes	Yes	No
Mississippi	Yes	Yes	Yes	Yes	Yes	No
Missouri	Yes R	Yes R	Yes R	Yes R	Yes R	No
Montana	U	U	U	U	U	No
Nebraska	Yes	Yes	Yes	Yes	Yes	Z
Nevada	Yes	Yes	Yes	Yes	Yes	Yes
New Hampshire	Yes	Yes	Yes	Yes	Yes	No
New Jersey	Yes	Yes	Yes	Yes	Yes	No
New Mexico	Yes	Yes	Yes	Yes	Yes	No
New York	Yes H	Yes H	Yes H	Yes H	Yes H	No
North Carolina	Yes ZZ	Yes ZZ	No	No	Yes AAA	No
North Dakota	Yes	Yes	No	No	Yes	No
Ohio	Yes R	Yes R	Yes R	Yes R	Yes R	No
Oklahoma	Yes	Yes	Yes	Yes	Yes	No
Oregon	Yes J	Yes J	Yes	Yes J	Yes	N/A
Pennsylvania	Yes	Yes	Yes	Yes	Yes	No G
Puerto Rico	No DD	No DD	No DD	No DD	CC	No DD
Rhode Island	Yes	Yes	Yes	Yes	Yes	No
South Carolina	Yes BB	Yes BB	Yes BB	Yes BB	Yes BB	No
South Dakota	Yes	Yes	Yes	Yes	Yes	No
Tennessee	Yes	Yes	Yes	Yes	Yes	No G
Texas	Yes EE	Yes EE	Yes EE	Yes EE	Yes	No
Utah	No E	No E	No E	No E	Yes	No
Vermont	Yes	Yes	Yes	Yes	Yes	No GG
Virginia	Yes HH	Yes HH	Yes R	No	Yes	No
Washington	Yes	Yes	Yes	Yes	Yes	Not licensed
West Virginia	JJ	JJ	JJ	JJ	JJ	JJ
Wisconsin	Yes	Yes	Yes	Yes	Yes	No
Wyoming	Yes	Yes	Yes	Yes	Yes	No

## 25. Dispensing Authority (cont.)

State	Physician Assistant	Advanced Registered Nurse Practitioner	Clinical Nurse Specialist	Nurse Midwife	Midwife	Nurse Practitioner
Alabama	Yes	Yes	No	Yes	No	Yes
Alaska	Yes	Yes A	No A	No A	No A	Yes A
Arizona	Yes	Yes	—	No C	No C	Yes
Arkansas	No	No	No	No	No	No
California	Yes TT	Yes TT	No F	Yes TT	No	Yes TT
Colorado	Yes	Yes V	No	Yes B	No	No
Connecticut	Yes	Yes	No	Yes	N/A	Yes A
Delaware	Yes	Yes J	Yes J	Yes J	No	Yes J
District of Columbia	Yes CCC	Yes UU	No	No	No	No
Florida	No E	Yes	No	No	No	No
Georgia	Yes K	Yes K	Yes K	Yes K	No	Yes K
Guam	Yes	Yes S	Yes S	Yes S	Yes S	Yes S
Hawaii	Yes	Yes L, V	Yes V	Yes V	No G	Yes V
Idaho	Yes	QQ	QQ	QQ	No	QQ
Illinois	Yes	Yes	Yes	Yes	No	Yes
Indiana	Yes YY	Yes NN	Yes NN	Yes NN	No	Yes NN
Iowa	No M	Yes	No N	No N	No	No N
Kansas	No	No	No	No	No	No
Kentucky	Yes V	Yes V	Yes V	Yes V	No	Yes V
Louisiana	No	No	No	No	No	No
Maine	Yes	Yes	No	Yes	Yes	Yes
Maryland	Yes O	Yes O	No	No	No	Yes O
Massachusetts	Yes Q	Yes Q	Yes Q	Yes Q	No	Yes Q
Michigan	Yes RR	Yes RR	Yes RR	Yes RR	No	Yes RR
Minnesota	Yes	Yes	Yes	Yes	No	Yes
Mississippi	No	No	No	No	No	No
Missouri	Yes T	Yes T	Yes T	Yes T	No	Yes T
Montana	U	U	U	U	No	U
Nebraska	Yes V	Yes V	Yes V	Yes V	No Z	Yes V
Nevada	Yes	Yes	No	No	No	No
New Hampshire	Yes	Yes	No	No	No	Yes
New Jersey	No	Yes	No	No	No	Yes
New Mexico	Yes	Yes B	Yes B	Yes B	No	Yes B
New York	Yes H	Yes H	No	N/A	Yes H	Yes H
North Carolina	Yes Y	Yes Y	N/A	No	No	Yes Y
North Dakota	Yes	Yes	Yes	Yes	No	Yes
Ohio	Yes B, O, R	Yes B, O, R	Yes B, O, R	Yes B, O, R	No	Yes B, O, R
Oklahoma	No E	No E	No E	No E (certified)	No	No
Oregon	Yes R	Yes AA	Yes AA	Yes AA	No	Yes AA
Pennsylvania	Yes PP	PP	No	BBB	BBB	PP
Puerto Rico	No DD	No DD	No DD	No DD	No DD	No DD
Rhode Island	Yes	Yes	MM	Yes	No	No
South Carolina	Yes V	Yes V	Yes V	Yes V	Yes V	Yes V
South Dakota	Yes W	No	No	Yes W	No	Yes
Tennessee	Yes	Yes	Yes	Yes	No	Yes
Texas	Yes FF	Yes FF	Yes FF	Yes FF	No	Yes FF
Utah	No E	No E	No	No E	No	No E
Vermont	Yes	Yes	Yes	Yes	No	Yes
Virginia	No GG	—	No	No GG	No	No GG
Washington	Yes	Yes	OO	Yes II	No	Yes II
West Virginia	JJ	JJ	JJ	JJ	JJ	JJ
Wisconsin	No	Yes KK	No	No	No	No
Wyoming	Yes	Yes A, LL	No	No	No	No

## 25. Dispensing Authority (cont.)

State	OB/GYN Nurse Practitioner	Pediatric Nurse Practitioner	Psychiatric Nurse Practitioner	Optometrist	Naturopathic Doctor
Alabama	Yes	Yes	Yes	Yes	No
Alaska	Yes A	Yes A	Yes A	Yes B	No
Arizona	Yes	Yes	Yes	Yes B	Yes B
Arkansas	No	No	No	No	No
California	Yes TT	Yes TT	Yes TT	Yes Y	Yes Y
Colorado	No	No	No	Yes B	No
Connecticut	Yes A	Yes A	Yes A	Yes	Yes B
Delaware	Yes J	Yes J	Yes J	Yes J	No
District of Columbia	No	No	No	No	No
Florida	No	No	No	Yes	Yes
Georgia	Yes K	Yes K	Yes K	Yes	No
Guam	Yes S	Yes S	Yes S	Yes B	Yes
Hawaii	Yes V	Yes V	Yes V	Yes	No I
Idaho	QQ	QQ	QQ	Yes	Yes XX
Illinois	Yes	Yes	Yes	Limited	No
Indiana	Yes NN	Yes NN	Yes NN	Yes B	No
Iowa	No N	No N	No N	No VV	No
Kansas	No	No	No	Yes B	No
Kentucky	Yes V	Yes V	Yes V	Yes B	No
Louisiana	No	No	No	Yes R, X	No
Maine	Yes	Yes	Yes	Yes	Yes
Maryland	Yes O	Yes O	No	No	No Z
Massachusetts	Yes Q	Yes Q	Yes Q	Yes Q	No
Michigan	Yes RR	Yes RR	Yes RR	Yes SS	No
Minnesota	Yes	Yes	Yes	No	No
Mississippi	No	No	No	Limited	No
Missouri	Yes T	Yes T	Yes T	Yes R	No
Montana	U	U	U	U	U
Nebraska	Yes V	Yes V	Yes V	Yes	No Z
Nevada	No	No	No	Yes	No
New Hampshire	Yes	Yes	Yes	Yes B, X	No
New Jersey	—	—	—	No	No
New Mexico	Yes B	Yes B	Yes B	Yes B	N/A
New York	Yes H	Yes H	Yes H	Yes H	No
North Carolina	Yes Y	Yes Y	Yes Y	No	No
North Dakota	Yes	Yes	Yes	No	No
Ohio	Yes B, O, R	Yes B, O, R	Yes B, O, R	Yes B, O, R	No
Oklahoma	No	No	No	No	No
Oregon	Yes AA	Yes AA	Yes AA	Yes	Yes
Pennsylvania	PP	PP	PP	Limited	No G
Puerto Rico	No DD	No DD	No DD	No DD	No DD
Rhode Island	No A	No A	No A	Limited P	No
South Carolina	Yes V	Yes V	Yes V	No	No
South Dakota	Yes	Yes	Yes	Yes	No
Tennessee	Yes	Yes	Yes	Yes	No G
Texas	Yes FF	Yes FF	Yes FF	Yes B	No
Utah	No E	No E	No E	No	No
Vermont	Yes	Yes	Yes	Yes	Yes B
Virginia	No GG	No GG	No GG	No	No
Washington	Yes II	Yes II	Yes II	Yes	Yes
West Virginia	JJ	JJ	JJ	JJ	JJ
Wisconsin	No	No	No	No	No
Wyoming A	No	No	No	Yes	No

## 25. Dispensing Authority (cont.)

2009  
National Association  
of Boards of Pharmacy

# Survey of Pharmacy Law

### LEGEND

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|---|---|
| <p>A — Any NP must be advanced to dispense. (WY—And certified.)</p> <p>B — Limited formulary.</p> <p>C — “Yes” if also an NP.</p> <p>D — With special permit only.</p> <p>E — Except may dispense samples.</p> <p>F — RN may dispense in clinic.</p> <p>G — Not licensed by this state.</p> <p>H — All prescribers are subject to restrictions on dispensing. Contact Board office.</p> <p>I — Naturopathic doctors are only allowed to prescribe and dispense prescription drugs that are vitamins, minerals, amino acids, and fatty acids.</p> <p>J — Only if approved by the Board of Medical Practice.</p> <p>K — Only in accordance with Pharmacy Board rules via a signed dispensing procedure and under the authority of a job description (PA) or a nurse protocol.</p> <p>L — Per ARNP with prescriptive authority formulary.</p> <p>M — PAs may only “supply” drugs.</p> <p>N — However, “certified” CNS, “certified” CNM, and “certified” NPs (ARNP classifications) may do so.</p> <p>O — Under specified conditions, such as certain clinics.</p> <p>P — Topical ophthalmics.</p> <p>Q — A practitioner in Massachusetts may “dispense” as limited by provision in GLC.94 [Section 9 (a)(b)(c)(d)].</p> <p>R — May dispense only to his or her own patients.</p> <p>S — Based on national specialty scope of practice.</p> <p>T — Under authority of collaborative practice arrangement with doctor and limited to 72-hour supply.</p> <p>U — MCA 37-2-104. Dispensing of drugs by medical practitioners unlawful—exceptions. (1) Except as otherwise provided by this section, it is unlawful for a medical practitioner to engage, directly or indirectly, in the dispensing of drugs. (2) Nothing in this section prohibits: (a) a medical practitioner from furnishing a patient any drugs in an emergency; (b) the administration of a unit dose of a drug to a patient by or under the supervision of such medical practitioner; (c) dispensing a drug to a patient by a medical practitioner whenever there is no community pharmacy available to the patient; (d) the dispensing of drugs occasionally, but not as a usual course of doing business, by a medical practitioner; (e) a medical practitioner from dispensing drug samples.</p> <p>V — Professional samples only. (KY—non-controlled substances.)</p> <p>W — When acting as agent of physician.</p> <p>X — Only Therapeutic Pharmaceutical Agents—certified optometrists.</p> <p>Y — Under rules of the Board of Pharmacy.</p> <p>Z — Not licensed.</p> | <p>AA — Must have special authority from the Board of Nursing or must be working under the authority of the Board of Pharmacy through a licensed family planning clinic. Nurse midwives are nurse practitioners in Oregon.</p> <p>BB — May dispense drugs or devices that are the lawful property of the practitioner or a partnership or corporate entity which is fully owned by licensed practitioners. Drugs or medicine dispensed must comply with the labeling requirements of state and federal laws and regulations.</p> <p>CC — Limited to veterinary products.</p> <p>DD — Pharmacy Act allows only pharmacists to dispense prescriptions.</p> <p>EE — Except for veterinarians, dispensing is severely restricted. Contact the Board office.</p> <p>FF — PAs and registered nurses who have advanced training may dispense their supervising physician’s samples only. RNs must be recognized by the Nursing Board. PAs must be recognized by the Medical Board. Both must have specialized training and education.</p> <p>GG — Except if allowed to prescribe, may dispense manufacturer’s samples only of those drugs authorized to prescribe.</p> <p>HH — Except for samples, must be licensed by Board of Pharmacy.</p> <p>II — Included in ARNP classification. Schedule II-IV limited to 72 hours.</p> <p>JJ — State pharmacy law and Board regulations do not apply to these occupational groups. The Boards of Medicine, Osteopathy, Dental, Veterinarian, Registered Professional Nurses, and Optometry regulate these various occupational groups.</p> <p>KK — Restricted samples, unless the treatment facility at which the patient is treated is located at least 30 miles from the nearest pharmacy. APNPs have limited dispensing authority.</p> <p>LL — Only if certified.</p> <p>MM — If licensed to prescribe, may dispense only items on their protocol.</p> <p>NN — APNs presumably have dispensing authority, although it is not explicitly authorized. The state does not necessarily recognize each listed nursing specialty.</p> <p>OO — No such designation in this state.</p> <p>PP — Limited, based on formulary and written agreement with supervising physician.</p> <p>QQ — CNMs, CNSs, NPs, and registered nurse anesthetists may dispense.</p> <p>RR — Under delegation and restrictions apply.</p> <p>SS — Limited drugs.</p> <p>TT — PAs and all NPs may provide medication pursuant to a protocol with a prescriber if prepackaged by the manufacturer, physician, or pharmacist.</p> |
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Druglaw

*Legend continues on page 94*

# Survey of Pharmacy Law

## 25. Dispensing Authority (cont.)

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### LEGEND — cont.

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|------|--|-------|---|
| UU — | Only NPs, CNSs, nurse midwives, and nurse anesthetists who are licensed by the District of Columbia Board of Nursing as an ARNP have dispensing authority. | YY —  | Refer to Medical Board and Physician Assistant Board for statutes and rules.  |
| VV — | Therapeutically certified optometrist may supply without charge limited diagnostic and therapeutic agents.   | ZZ —  | Must be registered with the Board as a dispensing physician.  |
| WW — | Pursuant to a dispensing permit issued by the licensee's Board.  | AAA — | May only dispense to veterinarian's own patients.   |
| XX — | If approved by formulary council.  | BBB — | Regulations pending.  |
|      |  | CCC — | As written in the delegation agreement that has been signed by both the physician assistant and the supervising physician(s). |



February 18, 2009

To the Chair and Members of the Senate Public Health, Welfare and Safety Committee:

My name is Rebecca Hazelbaker Deschamps. I'm a practicing hospital pharmacist in Missoula, and I am gravely concerned that SB445 will pose an unacceptable risk to my patients, your constituents, in the state of Montana. As a hospital pharmacist I'm removed from the "sales" aspect of pharmacy, and feel no financial threat from SB445, nor any "turf war" issues. I simply feel concern for the patients that I strive to protect, and I am saddened to see this bill, struck down in the 2007 Legislative Session, resurface in the 2009 Session. SB445 is simply a bill requested by an insurance company to save itself money and does not have the best interests of the citizens of our state at heart.

I feel great concern regarding the many patient safety issues that the passage of this bill would open up. Up until now, pharmacies have served among other things as a drug information clearing house. Most of the drugs that a patient is getting from ALL practitioners are listed in the medication profile at their pharmacy. I look at this fact as one last, critical measure of patient safety. While the majority of patients do utilize only one pharmacy, the majority of patients utilize multiple physicians in this era of medical specialties.

I have three main concerns about this bill:

**Concern #1: The typical patient uses multiple providers or specialists, and the risk of drug interactions could therefore be greatly enhanced.** Not only does the bill fail to address a mechanism by which the patient's pharmacy could be alerted to new medications dispensed by a practitioner, but also no mechanism exists for multiple practitioners to share their dispensing information. Considering the complex drug-drug interactions that exist for most medications today, this is truly an accident waiting to happen. Our patients, your constituents, deserve better.

I don't believe that the issue would be quite as ominous if the dispensing practitioner happens to be the primary healthcare provider for the patient. The patient's primary healthcare provider should already have a list of most or all of the medications the patient is taking. The point at which patients could most likely get into trouble would be when they visit, say, a cardiologist and are put on an anti-arrhythmic, and no other healthcare provider is aware of that fact. If the primary provider made the referral, the cardiologist would most likely send a consult letter to that provider. However if the referring provider is not the primary (say an OB-GYN notices a strange blip on a routine EKG before surgery) that information might never get back to the primary provider. Serious or fatal drug interactions could result down the road.

I recently reviewed the meds of a hospitalized 50-year old male stroke victim. He was unable to communicate well, so I called his primary physician and his pharmacy to get a list of his medications. His physician had him on 3 or 4 different medications including niacin. Niacin is a vasodilator, causing the blood vessels to expand to some degree. When I called his pharmacy to see if he was on other medications as well the pharmacist listed a few items from other practitioners, then said "did anyone mention that he's on Viagra?" Viagra is contraindicated in patients taking nitrates, and nitrates too are vasodilators. The combination can cause profound hypotension (low blood pressure)

and among other things, stroke. I reported this back to his primary physician who was grateful for the information even though it was tragically late. I'd fault the patient's pharmacy, and possibly the blame still lies there as well, but niacin is also available over the counter. The pharmacy might not have known when they dispensed Viagra that the patient was taking niacin as well. When the day comes that we have universal medical records, all of this will be a non-issue. Everyone will be able to see the entire picture, rather than just one or two puzzle pieces. However that day is not yet here.

**Concern #2: The safety net of patient counseling does not exist in the provisions of this bill.** SB445 does not even mandate that written material be given to the patient with regard to their medications. The Montana Legislature considered patient counseling important enough to pass 37-7-406: Standards for prospective drug utilization review and patient counseling:

(1) The board may by rule set standards for the provision of prospective drug utilization review information from a pharmacist to a patient before a prescription is dispensed to the patient or the patient's representative. The review may include, when applicable, an appropriate level of screening for potential drug therapy problems due to therapeutic duplication, drug disease contraindications, drug interactions, incorrect drug dosage or duration of drug treatment, drug-allergy interactions, and clinical abuse or misuse.

The Montana Board of Pharmacy responded by making patient counseling mandatory for all new prescriptions, and at the request of the patient or discretion of the pharmacist for all prescription refills. Even though pharmacists are mandated to offer to counsel on all new prescriptions, and on refills at their discretion, I realize sadly that's not always done. I can't apologize for pharmacists that shirk their duty (to me that would be the most interesting and rewarding facet of retail pharmacy practice), but I do think that most pharmacists generally make that attempt. **Dispensing practitioners shouldn't be held to a lesser standard.**

The question is; will busy physicians and other healthcare providers, who see a new patient on average every 15 minutes, be willing and able to counsel their patients when they dispense medications to them? When I served as Executive Director of the Board of Pharmacy I sent out a quarterly newsletter to pharmacists. In April 2003 I included the following statistics taken from the 2002 Schering Report, conducted by an independent research firm:

- \* Only 81% of patients are always told by the prescribing practitioner what the drug is for. If not told, they would rarely ask
- \* Only 67% of patients are always told by the prescribing practitioner how to take a new drug, and 44% are rarely or never told about adverse reactions.
- \* Forty-nine percent are never given written information about a new drug by their physician or staff. They rarely if ever ask for written information if it has not been offered.

If those supporting SB445 have any expectations that the bill will help patients in any way, those factors must be addressed.

**Concern #3: SB445 contains no definition of an employer-based onsite clinic.** This bill is potentially opening up the proverbial slippery slope. Why legislate when the intent of that legislation is unclear? Possibly there's a thought that practitioners in clinics are

all able to access the same data base and that this fact would help to prevent drug interactions and therapeutic duplication. That would work within each clinic if a central shared database existed, but would not be accessible by practitioners at a second clinic across town. Again, a central medication profile is a potential life-saver, and an attempt to preserve this would go a long way in protecting our most vulnerable patients.

**Again, SB445 is simply a bill requested by an insurance company to save itself money.** The fact that it was not requested by a group of pharmacists or physicians sworn to protect the health and safety of their patients speaks volumes to me, as I hope it will to you. The patients we serve and strive to protect on a daily basis are also your constituents. They deserve to be protected by the series of checks and balances presently in place. SB445 would remove those checks and balances, essentially the safety net under our patients, and they simply deserve better.

SB445 is a recycled version of SB397 which failed to pass during the 2007 Montana Legislative Session. I urge you to table SB445, or your recommendation of "Do Not Pass" if the bill is sent to the House floor. Please feel free to contact me if you have any questions regarding in this regard.

Thank you for your consideration.

Sincerely,

Rebecca H. Deschamps, RPh  
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Missoula, MT 59802  
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